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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/921,170	08/02/2001	Walter T. Burke	H052586.0003US0	7200

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EXAMINER

LOPEZ, FRANK D

ART UNIT

PAPER NUMBER

3745

DATE MAILED: 03/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/921,170

Applicant(s)

BURKE, WALTER T.

Examiner

F. Daniel Lopez

Art Unit

3745

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 January 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24,26-31 and 33-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 11-19, 21-24,26, 27, 29-31 and 33-39 is/are rejected.
- 7) ☒ Claim(s) 10,20,28 and 40 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Response to Amendment

Applicant's arguments filed January 21, 2003, have been fully considered but they are not deemed to be persuasive.

Applicant argues that neither Dailey nor Pittman fails to disclose a posterior portion of a heel section of a first resilient material embedding a flange, and a lip section of a second resilient material concentrically connected to an anterior portion of the heel section, distal to the hub; since lip 68 is not connected distal to the hub, on an anterior portion of the heel section, and the annular ring of low friction material is not recited as being resilient, but as relatively hard. Applicant notes that the sealing and cushioning member 64 extends over one entire axial surface 6 of the disc 62.

Resilience is defined as "bouncing or springing back into shape, position, etc. after being stretched bent or esp. compressed" (Webster's New World Dictionary, Third College Edition). It would appear that the annular ring of both Dailey and Pittman have a certain amount of resilience.

Claims 1, 11 and 21 claim that the lip 68 is connected to an anterior portion of the heel section, but not connected distal to the hub. Dailey meets this limitation. For example, if the posterior portion of the heel section is toward the rod side, then the lip section (18) is connected to the anterior portion of the heel section. The fact that the anterior portion of the heel section of Dailey is embedded in the flange does not affect the rejection, since the claims do not limit the anterior portion of the heel section from being embedded in the flange.

Claims 29, 35 and 36 claim lip 68 connected to the heel section, distal to the hub, but not connected to an anterior portion of the heel section. Dailey meets this limitation. The heel portion (74) includes three sections, a center section and two outer sections. Each outer section is connected to an outer side of the flange (72), with one of two lip sections connected to one of the two outer section, on a side distal from the flange.

Similar discussions of Pittman would show that Pittman meets the limitations of the above claims. It appears that applicant is arguing differences between the disclosed invention and the above two references, rather than the limitations of the claims. For

example, the geometry of the connection between the lip section and the heel section is not effected by the lip section having a portion connected to the flange.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 102

Claims 1-3, 5-9, 11-13, 15-19, 21-23, 27, 29, 30, 33-34, and 36-39 are rejected under 35 U.S.C. § 102(b) as being clearly anticipated by Pittman.

Claims 1-7, 11-17, 21-24, 26, 29-31, 33, and 35-37 are rejected under 35 U.S.C. § 102(b) as being clearly anticipated by Dailey.

Note that throughout the claims, a limitation concerning a "bumper section" (e.g. claim 36 line 11) is considered to be a name, and not define a limitation of the section. If applicant intends that "bumper section" should define a further limitation, this further limitation can be introduced into the claim. Note also that claims 6, 7, 16 and 17 are in effect a product by process claim, and since there appears to be no difference between the above pistons seals of Pittman and Dailey and a seal with a machined annular projection, the claims stand rejected.

Conclusion

Claims 10, 20, 28 and 40 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

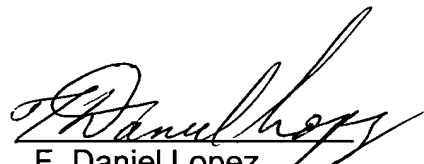
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

Art Unit: 3745

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dan Lopez whose telephone number is (703) 308-0008. The examiner can normally be reached on Monday-Thursday from 6:30 AM -4:00 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ed Look, can be reached on (703) 308-1044. The fax number for this group is (703) 872-9302. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0861.

A handwritten signature in cursive script, appearing to read 'F. Daniel Lopez', is written over a horizontal line.

F. Daniel Lopez
Primary Examiner
Art Unit 3745
March 27, 2003